

It was alleged in substance in the libel that the article was misbranded for the reason that the following statements regarding the curative or therapeutic effect thereof, appearing upon the carton containing the article and in the circular accompanying it, to wit, (carton) "* * * For Burns, Scalds, Rheumatism, Tic-Doloureux, Poisonous Bites of Spiders, * * * or from having come in contact with Poisonous Plants; Broken Breasts, Sore Nipples and Carbuncles, * * * Fistula * * * Injured Spine, Swellings of all kinds, * * * Sore Throat, * * *," (circular) "For the relief of * * * Ulcers of long or short standing; * * * Scrofulous and other Tumors, including White Swellings, * * * Old or Fresh Wounds, Gunshot Wounds, * * * Swellings and inflammations of all kinds; Rheumatic and other Pains; * * * Scald Head, Tetters on the head or any other part of the body; * * * Carbuncles, Cancerous Affections, Gangrene, Eruptions of all kinds; * * * Dog, Snake, Spider, and other Poisonous Bites; Broken Breasts, Sore Nipples, * * * Injured Spine; Sore Eyes, Swellings of all kinds; * * * Sore Throat; * * * Pleurisy and Pneumonia, * * * Splint, Wind Galls, * * * Fistula, * * * In early stages of inflammatory Rheumatism and Soreness about the Breast, * * * this Ointment stands unrivalled. * * * in the course of two or three hours, the system is thrown into a gentle perspiration, and all pains or soreness is rapidly removed. * * *," (similar statements in German and Spanish) were false and fraudulent in that the same falsely and fraudulently represented to purchasers thereof, and created in the minds of such purchasers, the impression and belief that the article was in whole or in part composed of or contained ingredients or medicinal agents or combinations of ingredients effective, among other things, as a remedy for the various diseases, ailments, and affections mentioned upon said carton and in said circular, whereas, in truth and in fact, it was not.

On October 19, 1920, the said W. F. Gray & Co. having appeared as claimant for the property, and it appearing to the court that said claimant had prepared an amended circular and advertising matter to be used in lieu of the circular and advertising matter complained of in this action, which said amended circular and advertising matter had been filed with the Solicitor of the Department of Agriculture, and it further appearing that said claimant company had agreed that the goods would not thereafter be sold or offered for sale contrary to the provisions of law, and it further appearing that the parties had agreed that the goods might be delivered to said claimant and that said claimant would remove and destroy the brand and advertising matter complained of and would relabel the goods in conformity with law, and said claimant having filed its bond in the sum of \$1,000, in conformity with section 10 of the act, for the prompt and faithful performance of the matters agreed to by it, it was ordered by the court that the property be delivered to said claimant, and that the cause be dismissed upon the payment of all the costs of the proceedings by the said claimant.

E. D. BALL, *Acting Secretary of Agriculture.*

9144. Misbranding of Bourbon Poultry Remedy. U. S. * * * v. 7 * * *

Bottles, 98 * * * Bottles, 29 Bottles, 3 Dozen Bottles, and 18 Bottles * * * of Bourbon Poultry Remedy. Default decrees of condemnation, forfeiture, and destruction. (F. & D. Nos. 11381, 11382, 11383, 11419. I. S. Nos. 7173-r, 7174-r, 7175-r, 8334-r, 8335-r, 6421-r. S. Nos. C-1496, C-1499, C-1505, C-1515.)

On or about October 2, 4, 7, and 10, 1919, the United States attorney for the Southern District of Ohio, acting upon reports by the Secretary of Agriculture, filed in the District Court of the United States for said district libels for the

seizure and condemnation of 7 bottles, 98 bottles, 29 bottles, 3 dozen bottles, and 18 bottles, more or less, of Bourbon Poultry Remedy, at Arcanum, Cincinnati, Xenia, and Miamisburg, Ohio, consigned by the Bourbon Remedy Co., Lexington, Ky., between May 10, 1918, and August 30, 1919, alleging that the article had been transported from the State of Kentucky into the State of Ohio, and charging misbranding in violation of the Food and Drugs Act, as amended. The article was labeled in part: (Carton, 50-cent and 60-cent sizes) "Save Your Fowls Bourbon Poultry Remedy A Superior Remedy for Cholera, Limberneck, Roup, Gapes, Diarrhoea, and certain other poultry diseases. * * * One Drop down the throat of a 'gahey' chicken destroys the worms and saves the chick's life * * * an efficient medicine for the treatment of Cholera, Limberneck, Roup, Gapes, Blackhead, Diarrhoea and other destructive blood and germ diseases. This remedy goes right down to the very fountain-head of these troubles, destroys the germs, drives out the poison;" (circular, all sizes) "Save Your Fowls Bourbon Poultry Remedy An Excellent Remedy For Gapes—Diarrhoea—Lemberneck—Roup * * * sure cure for gapes.' * * * 'It has cured the gapes * * * ' * * * sure cure for cholera, gapes, roup and limberneck' * * * and to prevent other diseases.' * * * it kept my chickens free from gapes.' * * * Bourbon Poultry Remedy for the prevention and cure of poultry diseases.' * * * sure cure for limberneck and cholera, * * * 'Two doses cured a chicken of gapes for me. I cured a grown hen of cholera in a day and another of roup in two days. * * * Bourbon Poultry Remedy cures.' * * * Had three fine hens take the roup, * * * three days' treatment cured them * * * 'Bourbon Poultry Remedy is a great cure for chicken diseases.' * * * 'We have been using Bourbon Poultry Remedy for two or three years with splendid results for diarrhoea and cholera.' * * * Bourbon Poultry Remedy 'saves the chick's life' * * * A valuable medicine for the treatment of White Diarrhoea, Cholera, Gapes, Roup, Sore Head, Limberneck, Canker, Blood Poison and certain other existing forms of poultry diseases. * * * 'One of my show birds had the worst case of roup I ever saw. * * * Bourbon Poultry Remedy * * * I took a feather, dipped it into the medicine and swabbed out her throat * * * also put a * * * quantity in her soft feed and drinking water, and today she is well and sound * * * I did not use half a bottle to cure her;" (bottle, 50-cent and 60-cent sizes) "Bourbon Poultry Remedy A Superior Remedy for Fowls White Diarrhoea, Gaps, Roup and Other Contagious Diseases * * * To Prevent Diseases * * *;" (bottle and wrapper, quart size) "Remedy for Cholera, Gapes, Diarrhoea, Roup, Limberneck and other infectious diseases."

Analysis of a sample of the product by the Bureau of Chemistry of this department showed that it was a solution containing essentially aloes, sulphuric acid, and sulphates of iron, copper, and magnesium.

It was alleged in substance in the libels that the article was misbranded for the reason that its package and label bore and contained the above-quoted statements, regarding the curative or therapeutic effect of said article, which were false and fraudulent in that said article contained no ingredient or combination of ingredients capable of producing the therapeutic effects claimed in said statements upon said cartons and labels and in said circulars, and that said drug was insufficient of itself for the successful treatment and cure of the ailments and diseases for which it was prescribed and recommended in the aforesaid statements in and upon said packages.

On March 10, 1920, no claimant having appeared for the property, judgments of condemnation and forfeiture were entered, and it was ordered by the court that the product be destroyed by the United States marshal.

E. D. BALL, *Acting Secretary of Agriculture.*